IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 25150 of 2007(R)

PETITIONER:

AJAYAN K.G.,
KUTTIVILAYIL, NOORNADU P.O., NOW WORKING AS
HSST ENGLISH (BY TRANSFER), PADANILAM HSS,
NOORANADU, ALAPPUZHA.

BY ADV. SRI.BENOY THOMAS

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, GENERAL EDUCATION
DEPARTMENT, TRIVANDRUM.

2. DIRECTOR OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM.

3. MANAGER,
PADANILAM HIGHER SECONDARY SCHOOL,
NOORNADU, ALAPPUZHA.

4. REKHA RADHAKRISHNAN,
NOW WORKING AS UPSA, PADANILAM HIGHER SECONDARY
SCHOOL, NOORNADU, ALAPPUZHA.

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K.BASHEER, J.

W.P.(C)No.25150 OF 2007

Dated this the 18th day of August, 2007

JUDGMENT

Petitioner who was initially appointed as Upper Primary School Assistant in an aided school under the management of respondent no.3 was later given appointment as Higher Secondary School Teacher (English) “by transfer” with effect from July 5, 2003. The above “by transfer appointment” of the petitioner was questioned by respondent no.4 who is now working as an Upper Primary School Assistant under the same management.

2. To make a long story short, the Director of Higher Secondary Education has now taken the view that the action of the manager was inconsistent with the rules under Chapter XXXII of KER. In Ext.P8 order passed by the Director, the manager has been directed to cancel the “by transfer” appointment of the petitioner and conduct fresh selection for the post of Higher Secondary School Teacher (English) in the school. Learned counsel submits that Ext.P8 order is ex facie illegal.

3. Anyhow, I do not propose to deal with any of the above contentions raised by the petitioner in this regard in view of the limited prayer made by the petitioner in the writ petition. Learned counsel submits that the petitioner has preferred Ext.P9 revision petition against Ext.P8 order. The limited prayer is to issue a direction to respondent no.1 to take an appropriate decision on Ext.P9 expeditiously. Learned Government Pleader submits that if Ext.P9 has been preferred as contended by the petitioner, a decision thereon will be taken without any delay.

4. In the above facts and circumstances, the writ petition is disposed of with a direction to respondent no.1 to consider and pass orders on Ext.P9 strictly on its merit and in accordance with law as expeditiously as possible, at any rate, within four months from the date of receipt of a copy of this judgment. Petitioner, the manager of the school, respondent no.4 and all others who are likely to be affected by any order that may be passed, shall be afforded sufficient opportunity to be heard before any decision is taken in the matter. Petitioner shall

produce a copy of the writ petition along with a certified copy of the judgment before respondent no.1 for compliance. It is made clear that petitioner will be entitled to draw salary attached to the post of Upper Primary School Assistant till a final decision is taken, if there is no other legal impediment.

Writ petition is disposed of as above.

A.K.BASHEER, JUDGE

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